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APPLICATION NO. 09/336,687 FILING DATE 06/21/99 FIRST NAMED INVENTOR YOKOGAWA

020457 IM22/0922  
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ATTORNEY DOCKET NO.  
500.37328X00

ART UNIT 1763  
ALEJANDRO M. GOOL  
PAPER NUMBER 4  
DATE MAILED: 09/22/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

1- File Copy

**Office Action Summary**

Application No.	Applicant(s)	
09/336,687	YOKOGAWA ET AL.	
Examiner	Art Unit	
Luz L. Alejandro	1763	

-- The MAILING DATE of this communication app ars on th c v rsh t with th corr spond nce address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
2a) This action is FINAL.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-54 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_ is/are allowed.  
6) Claim(s) \_\_\_\_ is/are rejected.  
7) Claim(s) \_\_\_\_ is/are objected to.  
8) Claims 1-54 are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.  
11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved.  
12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
a) All b) Some \* c) None of the CERTIFIED copies of the priority documents have been:  
1. received.  
2. received in Application No. (Series Code / Serial Number) \_\_\_\_\_.  
3. received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.  
14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 15) Notice of References Cited (PTO-892)                    18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
16) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    19) Notice of Informal Patent Application (PTO-152)  
17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                    20) Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-29, 31-36, and 50-53, drawn to a processing apparatus, classified in class 118, subclass 723E.
- II. Claims 30, 37-49, and 54, drawn to an etching process, classified in class 438, subclass 710.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as a deposition or a cleaning process.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Melvin Kraus on 09/20/00 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luz L. Alejandro whose telephone number is 703-305-4545. The examiner can normally be reached on 5/4/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Mills can be reached on 703-308-1633. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3599 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

*LLAM*  
LLAM  
September 21, 2000

*GM*  
GREGORY MILLS  
PRIMARY EXAMINER